

SECTION 73 PLANNING STATEMENT

Variation of Condition 6 of Planning Permission AL/31/22/PL

Site	Ryefields Farmhouse, Oak Tree Lane, Woodgate, PO20 3GU
Approved development	Demolition of existing building and erection of four houses with associated access, landscaping, parking and associated works
Original decision	Planning permission AL/31/22/PL, dated 17 November 2023
Application	Variation of Condition 6 to replace its pre-commencement trigger with a pre-occupation trigger

1. Introduction

1.1 This statement supports an application under section 73 of the Town and Country Planning Act 1990 to vary Condition 6 of planning permission AL/31/22/PL.

1.2 The application seeks one limited change: the adjacent/downstream drainage system would be required to be fully implemented and operational before first occupation, rather than before commencement of the approved development.

1.3 No change is proposed to the description, layout, scale or appearance of the approved development, the approved drainage strategy, the intended point of discharge, or the substantive requirement for the adjoining drainage infrastructure to be delivered and operational. All other conditions would continue to apply.

2. Existing and proposed wording

Existing Condition 6

In the instance that the approved drainage design permitted under condition 5 requires drainage discharge into a nearby approved development (AL/107/21/PL or another approved permission), commencement of this development shall not be allowed until the delivery of the drainage system in the adjacent land is fully implemented and operational.

Proposed Condition 6

In the instance that the drainage scheme approved pursuant to Condition 5 requires discharge into a drainage system serving a nearby approved development (including AL/107/21/PL or any other approved permission), no dwelling hereby permitted shall be occupied until the drainage system within the adjacent land into which the development is to discharge has been fully implemented and is operational.

Proposed reason

To ensure that the approved development is satisfactorily drained before occupation, in accordance with policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan.

3. Relationship with the other drainage conditions

3.1 Condition 5 will remain a pre-commencement condition. It requires full details of the proposed surface-water drainage scheme to be submitted to and approved by the Local Planning Authority before development commences, other than works of survey and investigation. Where the design relies on an adjacent development, it also requires a Deed of Easement to form part of the submitted details.

3.2 Condition 5 separately prevents occupation until the complete surface-water drainage system serving the property has been implemented in accordance with the approved details and requires that system to be maintained in perpetuity.

3.3 Condition 7 will also remain unchanged. It requires approval, before commencement, of a site-specific maintenance and management manual, including financial management and replacement arrangements for major components.

3.4 The proposed variation therefore does not remove or dilute drainage control. Before commencement, the Local Planning Authority will retain control over the design, technical acceptability, legal right to connect, and future maintenance arrangements. Before occupation, it will retain an absolute and enforceable prohibition preventing use of any dwelling unless both the site system and the necessary adjoining system are complete and operational.

4. Planning assessment

4.1 Appropriate timing of the safeguard

The purpose of Condition 6 is to ensure that the approved dwellings do not rely upon downstream infrastructure that is unavailable. That purpose is fully achieved by a pre-occupation trigger. The permanent downstream network is required when the completed development is brought into use and begins to discharge to it; it is not inherently necessary merely to enable building operations to commence, provided construction-phase surface water is safely managed and no permanent discharge to the adjoining system occurs before it is operational.

Moving the trigger would allow the approved development and the adjoining infrastructure to progress in parallel while retaining the essential safeguard at the point when it is required. This avoids making the programme for commencement of the approved four-dwelling scheme entirely dependent upon the construction programme of a separate site.

4.2 No change to the drainage strategy

The application does not seek approval for a different drainage design or an alternative outfall. Those matters remain for approval under Condition 5. Nor does the application permit occupation in advance of the downstream infrastructure. The amendment concerns sequencing only.

4.3 Flood-risk and maintenance controls remain

The combined effect of Conditions 5, 6 and 7, as proposed to be amended, would continue to secure:

- approval of the detailed surface-water drainage scheme before commencement;
- evidence of the legal ability to discharge to adjoining land where that route is relied upon;
- approval of long-term maintenance and funding arrangements before commencement;
- implementation of the complete on-site system before occupation; and
- completion and operation of the necessary adjoining/downstream system before occupation.

5. Policy and the tests for planning conditions

5.1 Section 73 provides the appropriate mechanism to vary a condition attached to an existing permission. A permission granted under section 73 would be a new permission for the same development, subject to the varied condition and the other conditions restated by the Council.

5.2 Policy DM6 of the August 2026 National Planning Policy Framework requires conditions to be necessary, relevant, precise, enforceable and reasonable. It also states that conditions required to be discharged before development commences should be avoided unless there is clear justification. The Planning Practice Guidance similarly advises that pre-commencement conditions should be used only where there is clear justification and the timing requirement is fundamental to the development permitted.

5.3 The proposed wording satisfies those tests. It is necessary and relevant because it prevents occupation without an operational drainage route; precise and enforceable because the trigger and required state of the adjoining system are clear; and reasonable because it applies the restriction at the stage when the downstream infrastructure is actually required.

5.4 Retaining the original pre-commencement trigger would go beyond what is necessary to achieve the condition's purpose, because Conditions 5 and 7 already control all matters that need approval before works begin. The proposed amendment is therefore a more proportionate means of securing the same planning outcome and is consistent with policies W SP1, W DM1, W DM2 and W DM3 of the Arun Local Plan.

6. Conclusion

6.1 This is a narrowly focused application concerning the timing of one drainage safeguard. The approved development and drainage strategy are unchanged, and the Local Planning Authority retains full control over drainage design, easement arrangements, implementation, maintenance and the availability of the downstream system.

6.2 The revised condition would prevent occupation until the adjoining system is fully implemented and operational, while allowing construction of the approved development to proceed in parallel. It is necessary, precise, enforceable and proportionate. The Council is therefore respectfully requested to grant planning permission under section 73 subject to the proposed replacement Condition 6 and the continued application of all other relevant conditions.